

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,

v.

23-CR-46 (JLS)

KHALED ABUGHANEM, and
WALEED ABUGHANEM,

Defendants.

ORDER ON PRETRIAL MOTIONS

On December 20, 2023, the Court held oral argument on Khaled Abughanem's and Waleed Abughanem's pretrial motions. The Court issued the following rulings on each motion, as stated more fully on the record. The transcript shall constitute the Court's reasons for these rulings.

- **Waleed Abughanem's motion to suppress the December 17, 2022 search of his cellphone at Logan International Airport (Dkt. 129, ¶¶ 12–50).**

The Court **DENIED** the motion.

- **Khaled Abughanem's motion to suppress the December 17, 2022 search of Waleed Abughanem's cellphone at Logan International Airport (Dkt. 90, ¶¶ 180–84)**

The Court **DENIED** the motion.

- **Khaled Abughanem's motion for a *Franks* hearing (Dkt. 90, ¶¶ 129–77)**

The Court **DENIED** the motion.

- **Waleed Abughanem's motion to suppress the February 13, 2023 search of his cellphone incident to arrest as fruit of the poisonous tree (Dkt. 129, ¶¶ 51–64).**

The Court **DENIED** the motion.

- **Khaled Abughanem's motion to suppress statements he made on February 14, 2023 to FBI Special Agents (Dkt. 90, ¶¶ 178–79).**

The Court **DENIED** the motion. The video evidence demonstrated that Khaled Abughanem's statements to FBI Agents were spontaneous and constituted a waiver of his right to an attorney.

- **Khaled Abughanem's motion to controvert the search warrants and suppress all evidence seized from the execution of those warrants (Dkt. 90, ¶¶ 129–77).**

The Court **DENIED** the motion. Each warrant was sufficiently particularized and supported by probable cause.

- **Khaled Abughanem's motion to suppress the search of his cellphones and other electronic devices incident to his arrest on February 14, 2023 (Dkt. 90, ¶¶ 185–86).**

The Court **DENIED** the motion.

- **Khaled and Waleed's motion to exclude statements of non-testifying co-conspirators (Dkt. 129, ¶¶ 65–72; Dkt 90, ¶¶ 8–12).**

The Court held the motion in abeyance, pending trial.

- **To the extent that Khaled Abughanem made a motion to suppress statements he made to his wife during jail calls (Dkt. 90, ¶ 174).**

The Court **DENIED** the motion. Khaled Abughanem may seek reconsideration if he is able to present evidence to support a showing of any inability to understand prerecorded warnings that played before jail calls.

- **Khaled Abughanem and Waleed Abughanem's motions for a bill of particulars (Dkt. 129, ¶¶ 73–81; Dkt. 90, ¶¶ 13–21).**

The Court **DENIED** the motions.

- **Khaled Abughanem's motion for disclosure of the identity of informants (Dkt. 90, ¶¶ 22–44).**

The Court **DENIED** the motion, without prejudice.

- **Khaled Abughanem and Waleed Abughanem's Request for *Brady/Jencks/Giglio* material and other discovery under Rule 12/Rule 16 (Dkt. 90, ¶¶ 45–95; Dkt. 129, ¶¶ 82–116).**

The Court **DENIED** the motions as moot.

- **Khaled Abughanem's motion for an order returning all computers and any other information derived therefrom (Dkt. 90, ¶¶ 63–64).**

The Court **DENIED** the motion.

- Khaled Abughanem's motion for disclosure of evidence pursuant to Rules 404(b), 608, and 609 of the Federal Rules of Evidence (Dkt. 90, ¶¶ 88–92).

The Court **DENIED** the motion as moot.

- Khaled Abughanem's motion for preservation of rough notes and other evidence (Dkt. 90, ¶¶ 96–98).

The Court **DENIED** the motion as moot.

- Khaled Abughanem's motion for grand jury transcripts (Dkt. 90, ¶¶ 99–100).

The Court **DENIED** the motion.

- Khaled Abughanem's motion to *voir dire* experts outside the presence of a jury (Dkt. 90, ¶¶ 101–106).

The Court held the motion in abeyance, pending trial.

- Khaled Abughanem's motion for an audibility hearing (Dkt. 90, ¶¶ 107–108).

The Court **DENIED** the motion, without prejudice.

- Khaled Abughanem and Waleed Abughanem's motion for leave to file additional motions (Dkt. 90, ¶¶ 187–88; Dkt. 129, ¶ 118).

The Court deferred a ruling. Any future request will be addressed on the record then before the Court.

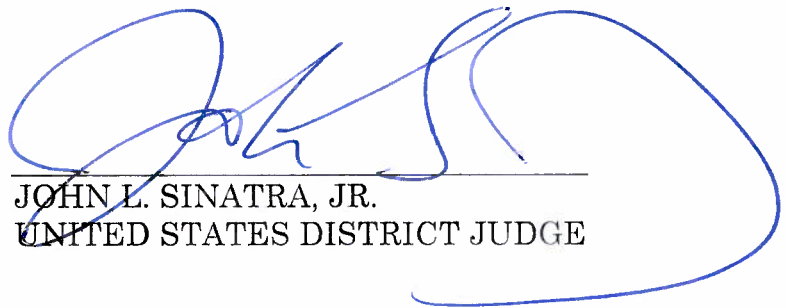
- **Government's cross-motion for reciprocal discovery (Dkt. 115, at 65-66)**

The Court **GRANTED** the motion.

To the extent that Khaled Abughanem or Waleed Abughanem joined a motion filed by the other and discussed above (Dkt. 90, ¶ 194; Dkt. 129, ¶ 117), the Court's rulings in this Order and on the record shall apply to both of them.

SO ORDERED.

Dated: December 21, 2023
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE